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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/997,489	12/23/1997	CHARLES L. DENNIS	51410-P003US	1370

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EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

08/997,489

Applicant(s)

DENNIS, CHARLES L.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 107-112 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 107-112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 107-112 are pending. Applicant cancelled claims 1-106 and 113-125.

Applicant's December 23, 2003 Amendment has been entered. The previous rejection is withdrawn pursuant to Applicant's August 20, 2004 REMARKS. The Examiner regrets the lack of compact prosecution, but upon further review the following is deemed necessary.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 107-112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 107, line 1, the phrase "for processing financial data" is intended use language. Thus, the financial data is not positively recited. From line 5, Applicant recites "receiving financial data" in a positive recitation. Thus, the Examiner is confused as to whether the Applicant intended a positive recitation of the financial data.

Claim 107, lines 2-3, the phrase "said customers" lacks antecedent basis.

Claim 107, line 6, the phrase "for a customer" is intended use language. Thus, the customer is not positively recited. Applicant then attempts to positively a plurality of customers from "said customers wireless device" from line 8. It is not clear what Applicant intends to claim. Also, the later phrase lacks antecedent basis.

***Claim Rejections - 35 USC §101***

4. Claims 107-112 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 107-112 only recite an abstract idea. The recited steps of receiving, establishing, identifying and determining does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The terms "wireless cell" and "wireless device," as claimed, do not obviate this line of reasoning. These steps only constitute an idea of how to receive financial data. The customer need not be present to execute any of the steps, and if executed may merely be given by hand (digital data) or orally.

***Claim Rejections - 35 USC § 103***

5. Claims 107-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolls, US 6,601,040.

Kolls discloses a wireless system for processing financial data for transmission in which customers use wireless devices, e.g. 558, with a merchant for correlating the financial data with the customer information to select individual profiles to facilitate the transaction of funds within a remote location, e.g. 636, from a geographic area for a point-of-sale device, e.g. 614. Harris does not explicitly disclose the terms if only one of said point-of-sale device locations. However, to have provided the hypothetical for displaying a list of point-of-sale device locations for Koll, would have been obvious to one of ordinary skill in the art. It is noted that Kolls need not provide the hypothetical point-of-sale locations within certain geographical areas noted by the Applicant from claim 1, lines 11-17. Simply put, Kolls need only determine which of the plurality of point-of-sale locations are within said geographic area.

6. Further pertinent references are noted on the attached PTO-892.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Joseph Rudy

November 11, 2004